

REMARKS

Upon entry of the present amendment, claim 6 will have been amended and claim 7 will have been canceled. Further, no claims will have been newly submitted.

Accordingly, Applicants respectfully request favorable reconsideration and allowance of all pending claims in the present application.

Initially, Applicants would like to thank Examiner Selby and Primary Examiner Vu for conducting a telephone interview with Applicants' representatives, Bill Pieprz and Kathy Takeguchi, on August 30, 2004. The telephone interview included a discussion of claims 1, 6, and 13. In particular, Applicants' representatives argued the inappropriateness of the obviousness rejections with respect to the independent claims. The arguments set forth during the interview are included herein below. At the conclusion of the interview, the Primary Examiner indicated claims 1 and 13 as being allowable, but indicated claim 6 as being somewhat broad. Further, it was noted that a response would be filed, shortly.

In the Official Action, the Examiner rejected claims 1, 4-8, 11-13, and 16-17 under 35 U.S.C. § 103(a) as being unpatentable over PARULSKI et al. (United States Patent No. 5,900,909) in view of OKANO et al. (United States Patent No. 5,402,197). The Examiner further rejected claims 2, 9, and 14 under 35 U.S.C. § 103(a) as being unpatentable over PARULSKI in view of OKANO and in further view of HARA (United States Patent No. 5,686,665). Also, claims 3, 10, and 15 were rejected under § 103(a) as

P20187.A05

being unpatentable over PARULSKI in view of OKANO and in further view of NAKAJIMA (United States Patent No. 5,669,147).

Applicants respectfully traverse each of the above-noted rejections and submit that they are inappropriate as PARULSKI and OKANO, alone or in combination, fail to disclose or even suggest the combination of features as recited in each of Applicants' claims.

For example, Applicants respectfully submit that PARULSKI and OKANO, alone or in combination, fail to disclose or suggest at least performing a camera function, including not recording position data, based upon a determination that the position data is invalid when the magnitude of the acceleration is detected as being equal to or greater than a predetermined value. This feature, as disclosed by Applicants, is advantageous in providing a digital camera that correctly detects the position of the camera body even if an acceleration other than the acceleration of gravity acts upon the camera body when an image is captured while the camera is panned quickly, thereby reproducing the image on a display in an easy-to-see orientation.

However, as noted by the Examiner, PARULSKI lacks, inter alia, an acceleration sensor and a controller, which records or does not record position data depending on the magnitude of the acceleration when compared to a predetermined value. Further, Applicants respectfully submit that PARULSKI does not even suggest an acceleration sensor or a controller, as recited.

PARULSKI, on the other hand, is directed towards an image sensor that generates an image signal corresponding to a still image of a subject and an orientation determination section that senses the orientation of the camera relative to the subject. More specifically, PARULSKI is directed towards storing or not storing orientation code based upon whether the camera or a computer will be performing the image processing. As noted in column 6, lines 5-29, if it is determined that the images will be corrected within the camera, no orientation code is stored. On the other hand, if a computer will be performing the image processing, the orientation code is stored on the memory card so that the orientation code may be transferred to the computer. Accordingly, there is no need, disclosure, suggestion, or motivation to modify PARULSKI in the manner asserted by the Examiner at least since PARULSKI specifically discloses that storing or not storing orientation code is based on whether the camera or a computer will be performing the image processing and is operable via an on/off switch.

Moreover, in contrast to the Examiner's assertions, OKANO does not disclose or suggest, inter alia, the above-mentioned features. Rather, as illustrated in Figure 3, OKANO is directed towards determining whether to sound an alarm prior to photographing if the release switch is "ON" based upon whether the camera shake exceeds a certain value. OKANO, however, does not disclose or suggest at least the claimed controller or make any correlation between recording or not recording position data depending on the magnitude of acceleration in comparison to a predetermined

P20187.A05

value. Additionally, there is no (implied or explicit) suggestion for such a feature in OKANO.

As discussed above, PARULSKI and OKANO, alone or in combination, fail to disclose each and every feature as recited in the claims. In particular, neither PARULSKI nor OKANO disclose or even suggest the controller, as recited in the claims. Further, Applicants respectfully submit that the obviousness rejection as asserted lacks not only the combination of features as recited, but also motivation and suggestion for the asserted combination. Accordingly, Applicants respectfully request withdrawal of the rejection and passage of the application to issue.

In view of arguments similar to the above, the Examiners indicated that claims 1 and 13 are allowable. Claim 6 has been amended to include the recitations of claim 7 and is now submitted to be clearly allowable based on the recitations thereof that are not taught or rendered obvious by the combination of references cited there against by the Examiner.

Thus, in view of the amendments and arguments herein, Applicants submit that claims 1, 6, and 13 are in condition for allowance. With regards to dependent claims 2-5, 8-12, and 13-17, Applicants assert that they are allowable on their own merit, as well as because they depend either directly or indirectly from independent claim 1, 6 or 13, which Applicants have shown to be allowable.

P20187.A05

Thus, it is respectfully submitted that all of the claims in the present application are clearly patentable over the references cited by the Examiner, either alone or in any proper combination, and an indication to such effect is respectfully requested, in due course.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of the claims, as well as an indication of the allowability of each of the claims in view of the herein-contained remarks.

SUMMARY AND CONCLUSION

Applicants have made a sincere effort to place the present application in condition for allowance in accordance with the Examiner's suggestions and believe that they have now done so.

The amendments to the claims, which have been made in this amendment, have not been specifically noted to overcome a rejection based upon the prior art. Thus, the claims should be considered to have been made for a purpose unrelated to patentability and no estoppel should be deemed to attach thereto.

Applicants note the status of the present application as being after final rejection and with respect to such status believes that there is a clear basis for the entry of the above amendment consistent with 37 C.F.R. §1.116. Applicants note that amendments after final are not entered as a matter of right. However, Applicants submit that the amendments made to the pending claims do not raise any new issues requiring further search or consideration at least since the revision of claim 6 is based upon the previously recited features of now canceled claim 7. It is also submitted that the present amendment does not raise the question of new matter. Moreover, the present amendment clearly places the present application in condition for allowance.

Accordingly, Applicants respectfully request entry of the present amendment in accordance with the provisions of 37 C.F.R. §1.116, reconsideration and withdrawal of

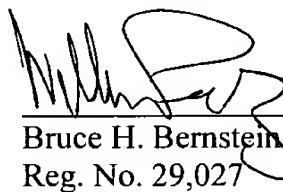
P20187.A05

the outstanding objections and rejections, and indication of the allowability of each of the claims pending herein.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

September 3, 2004
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

Respectfully submitted,
Atsushi FUCHIMUKAI et al


Bruce H. Bernstein
Reg. No. 29,027